

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARLES TONGE,

Plaintiff,

-v-

THE CITY OF NEW YORK and CORIZON,

Defendants.
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USDC-SDNY
DOCUMENT
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DATE FILED: **FEB 10 2015**

14-CV-3954 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

The Court is in receipt of Defendants' letter dated February 6, 2015 (Dkt. 29) setting forth Defendants' views as to certain matters discussed during the telephone conference held on January 30, 2015, where Plaintiff asserted on the record that the only relief he seeks is medical care for his alleged leg condition. As Defendants correctly note, Plaintiff is no longer in the custody of New York City authorities but rather is incarcerated at Upstate Correctional Facility in the custody of the New York State Department of Corrections and Community Supervision. As such, Defendants take the view that if Plaintiff is not satisfied with the care he has received, he is likely best served by pursuing the recourse available to him through State authorities, including administrative remedies such as the New York Inmate Grievance Program ("IGP"). Defendants further advise that, in light of Plaintiff's acknowledgment that he only seeks relief in the form of medical care, they seek leave to supplement their motion to dismiss because, in their view, the relief Plaintiff seeks "cannot be granted as against the named defendants." Simply put, Defendants say that they cannot help Plaintiff receive medical attention—only the State authorities can.

In view of the foregoing, it is hereby:

ORDERED that the stay in this matter is lifted.

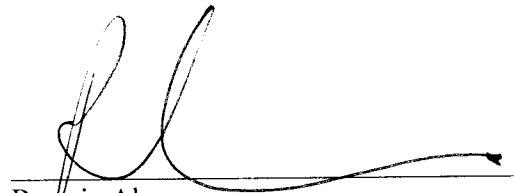
IT IS FURTHER ORDERED that Plaintiff shall notify the Court in writing no later than February 24, 2015 as to whether he intends to continue prosecuting this action in light of his move to State custody and Defendants' argument as to the viability of his claim. Plaintiff is encouraged to carefully consider the information provided by Defendants, including the information concerning (1) the inability of City authorities to provide him with medical care while he is in State custody and (2) his obligation under the Prison Litigation Reform Act, 42 U.S.C. § 1997e, to exhaust all grievance procedures available to him prior to commencing an action under 42 U.S.C. § 1983.

IT IS FURTHER ORDERED that Defendants' request for leave to supplement their motion to dismiss is GRANTED. Defendants shall have until March 6, 2015 to do so. In the event Plaintiff indicates his desire to continue prosecuting this action, he shall file his opposition to Defendants' motion to dismiss no later than April 3, 2015. Defendants' reply, if any, shall be due April 10, 2015.

In light of the history of this action, Plaintiff is reminded of the importance of meeting deadlines set by the Court.

SO ORDERED.

Dated: February 10, 2015
New York, New York



Ronnie Abrams
United States District Judge